

Assembly Bill No. 855

Passed the Assembly September 6, 2013

Chief Clerk of the Assembly

Passed the Senate September 3, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 19996.2 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 855, Brown. State employees: absence without leave: reinstatement.

The State Civil Service Act provides that absence without leave for 5 consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked. The act provides a procedure for a permanent or probationary state employee to seek reinstatement and for the Department of Human Resources to grant reinstatement. Reinstatement may be granted if (1) the employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave, and (2) the department finds that the employee is ready, able, and willing to resume the discharge of the duties of his or her position or has obtained consent for a leave of absence.

This bill would permit an employee to demonstrate that he or she is ready, able, and willing to resume the discharge of the duties of his or her position by submitting written verification from his or her licensed health care provider that shows the employee is released to return to work.

This bill would require the department to grant reinstatement if the hiring authority separates an employee from state service pursuant to those provisions before the expiration of the 5th working day.

The people of the State of California do enact as follows:

SECTION 1. Section 19996.2 of the Government Code is amended to read:

19996.2. (a) Absence without leave, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked.

(b) The department shall grant reinstatement if the hiring authority, in violation of paragraph (a), separates an employee for absence without leave pursuant to this section prior to the expiration of the fifth working day. However, nothing in this paragraph limits the hiring authority's right to otherwise dismiss or discipline an employee.

(c) (1) A permanent or probationary employee may, within 90 days of the effective date of a separation described in subdivision (a), file a written request with the department for reinstatement. However, if the appointing power has notified the employee of his or her automatic resignation, any request for reinstatement shall be made in writing and filed within 15 days of the service of notice of separation. Service of notice shall be made as provided in Section 18575 and is complete on mailing. Reinstatement may be granted if both of the following apply:

(A) The employee makes a satisfactory explanation to the department as to the cause of his or her absence and his or her failure to obtain leave.

(B) The department finds that the employee is ready, able, and willing to resume the discharge of the duties of his or her position or, if not, that he or she has obtained the consent of his or her appointing power to a leave of absence to commence upon reinstatement.

(2) An employee may demonstrate to the department that he or she is ready, able, and willing to resume the discharge of the duties of his or her position by submitting written verification from his or her licensed health care provider that shows the employee is released to return to work. However, nothing in this section waives the right of the hiring authority to challenge the validity or accuracy of the medical verification.

(3) Except as provided in subdivision (d), an employee reinstated pursuant to this section shall not be paid salary for the period of his or her absence or separation, or for any portion thereof.

(d) If this section is in conflict with a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action. However, if the memorandum of understanding requires the expenditure of funds, the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.

Approved _____, 2013

Governor